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Recommended Citation

Utah Code Annotated Title 57-12 (Michie, 1974)

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(a) Forthwith sends a copy of the process and of the pleading by certified or registered mail to the defendant or respondent at his last known address, and

(b) The plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

(2) If any person, including any nonresident of this state, engages in conduct prohibited by this act or any rule or order hereunder, and has not filed a consent to service of process and personal jurisdiction over him cannot otherwise be obtained in this state, that conduct authorizes the division to receive service of process in any noncriminal proceeding against him or his successor which grows out of the conduct and which is brought under this act or any rule or order hereunder, with the same force and validity as if served on him personally. Notice shall be given as provided in subsection (1).

History: L. 1973, ch. 158, § 20.

57-11-21. Uniformity of construction.—This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

History: L. 1973, ch. 158, § 21.

Repealing Clause.

Section 22 of Laws 1973, ch. 158 provided: "Sections 61-2-15 and 61-2-16, Utah Code Annotated 1953, are repealed."

Separability Clause.

Section 23 of Laws 1973, ch. 158 provided: "If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable."

Effective Date—Disposal offers prior to effective date.

Section 24 of Laws 1973, ch. 158 provided: "This act shall take effect August

1, 1973, notwithstanding that a subdivider may have offered to dispose of any interests in lands prior thereto which under this act would be deemed subdivided lands, provided that with respect to any subdivision for which a public report has issued and a permit to sell has been granted prior to August 1, 1973, a subdivider may comply with this act either by making application under this act by September 1, 1973, or within 30 days after the first anniversary date of the issuance of a public report and granting of a permit to sell, whichever is later, and in the latter event, by providing that information required by section 6 [57-11-6] which has not already been provided the division, together with such information as is necessary to bring current that information which has already been provided."

CHAPTER 12

RELOCATION ASSISTANCE

Section 57-12-1.	Citation of act.
57-12-2.	Declaration of policy.
57-12-3.	Definition of terms.
57-12-4.	Federal funds—Direct assistance.
57-12-5.	Reimbursement of owner for expenses.
57-12-6.	Buildings, structures or other improvements.
57-12-7.	Replacement dwelling.
57-12-8.	Advisory program.

- 57-12-9. Rules and regulations of displacing agency.
- 57-12-10. Displacing agency may contract for services or function through another agency.
- 57-12-11. Payments not income or resources for welfare or tax purposes.
- 57-12-12. Appeal of administrative determination.
- 57-12-13. Procedure for acquisition of property.

57-12-1. Citation of act.—This act shall be known and may be cited as the "Utah Relocation Assistance Act."

History: L. 1972, ch. 24, § 1.

Title of Act.

An act relating to relocation assistance; providing for a program of relocation assistance involving all agencies of the state and its political subdivisions; abolishing the separate relocation assistance program of Utah state road commission; prescribing the powers and duties of these agencies in relocation procedures; providing for relocation assistance to displaced persons and businesses; providing for payment of cer-

tain amounts of assistance and for usage of available federal funds; prescribing procedures and providing for promulgation of rules and regulations; and repealing sections 27-12-12, 27-12-12.1, 27-12-12.5, 27-12-12.7, 27-12-12.8, 27-12-12.9, and 27-12-12.10, Utah Code Annotated 1953, as enacted by chapter 66, Laws of Utah 1969, and sections 27-12-12.2, 27-12-12.3, 27-12-12.4, and 27-12-12.6, Utah Code Annotated 1953, as enacted by chapter 66, Laws of Utah 1969, as amended by chapter 57, Laws of Utah 1971.

57-12-2. Declaration of policy.—It is hereby declared to be the policy of this act and of the state of Utah, and the legislature recognizes:

(1) That it is often necessary for the various agencies of state and local government to acquire land by condemnation;

(2) That persons, businesses, and farms are often uprooted and displaced by such action while being recompensed only for the value of land taken;

(3) That such displacement often works economic hardship on those least able to suffer the added and uncompensated costs of moving, locating new homes, business sites, farms, and other costs of being relocated;

(4) That such added expenses should reasonably be included as a part of the project cost and paid to those displaced;

(5) That the Congress of the United States has established matching grants for relocation assistance, and has also established uniform policies for land acquisition under the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 [42 U.S.C. 4601 et seq.], to assist the states in meeting these expenses and assuring that land is fairly acquired;

(6) That it is in the public interest for the state of Utah to provide for such payments and to establish such land acquisition policies.

Therefore, the purpose of this act is to establish a uniform policy for the fair and equitable treatment of persons displaced by the acquisition of real property by state and local land acquisition programs, by building code enforcement activities, or by a program of voluntary rehabilitation of buildings or other improvements conducted pursuant to governmental supervision.

All of the provisions of the act shall be liberally construed to put into effect the foregoing policies and purposes.

History: L. 1972, ch. 24, § 2.

57-12-3. Definition of terms.—As used in this act: (1) “Agency” means a department, division, agency, commission, board, council, committee, authority, or other instrumentality of the state or of a political subdivision of the state whether one or more.

(2) “Person” means any individual, partnership, corporation, or association.

(3) “Displaced person” means any person who, after the effective date of this act, moves from real property, or who moves his personal property from real property, or moves or discontinues his business or moves his dwelling as a result of the acquisition of the real property, in whole or in part, or as a result of a written order of the acquiring agency to vacate real property for a program of purchase undertaken by an agency or as a direct result of code enforcement activities or a program of rehabilitation of buildings conducted pursuant to a federal or state assisted program.

(4) “Non-profit organization” means all corporations, societies, and associations whose object is not pecuniary profit, but is to promote the general interest and welfare of the members, whether temporal, social, or spiritual.

(5) “Business” means any lawful activity, excepting a farm operation, conducted primarily:

(a) For the purpose, sale, lease, or rental of personal or real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(b) For the sale of services to the public;

(c) By a nonprofit organization; or

(d) For assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(6) “Farm operation” means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator’s support.

History: L. 1972, ch. 24, § 3.

57-12-4. Federal funds—Direct assistance.—(1) When federal funds are available for payment of direct financial assistance to persons displaced by acquisition of real property by any agency, the displacing agency is authorized to use such federal funds with state or local funds to the extent provided by federal law and may provide such direct financial assistance in the instances and on the conditions set forth by federal law and regulations.

(2) When federal funds are not available or used for payment of direct financial assistance to persons displaced by the acquisition of real property

by an agency, the displacing agency may provide direct financial assistance to such persons. Financial assistance authorized by this subsection (2) shall not exceed the total amount that would have been payable under subsection (1) of this section if federal funds had been available or used.

History: L. 1972, ch. 24, § 4.

57-12-5. Reimbursement of owner for expenses.—Any agency acquiring real property for its use shall as soon as practicable after the date of payment of the purchase price or the date of deposit into court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, reimburse the owner, to the extent the agency deems fair and reasonable, for expenses the owner necessarily incurred for:

(1) Recording fees, transfer taxes, and similar expenses incidental to conveying the real property to the agency;

(2) Penalty costs for prepayment for any pre-existing recorded mortgage entered into in good faith encumbering the real property; and

(3) The prorata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the agency, or the effective date of possession of such real property by the agency, whichever is the earlier.

History: L. 1972, ch. 24, § 5.

57-12-6. Buildings, structures or other improvements.—(1) Where any interest in real property is acquired, an equal interest in all buildings, structures, or other improvements located upon the real property so acquired and which is required to be removed from the real property or which is determined to be adversely affected by the use to which the real property will be put, shall be acquired.

(2) For the purpose of determining the just compensation to be paid for any building, structure, or other improvement required to be acquired under subsection (1), the building, structure, or other improvement shall be deemed to be a part of the real property to be acquired, notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove the building, structure, or improvement at the expiration of his term; and the fair market value which the building, structure, or improvement contributes to the fair market value of the property to be acquired, or the fair market value of the building, structure, or improvement for removal from the real property, whichever is the greater, shall be paid to the tenant therefor.

(3) Payment for the buildings, structures, or improvements as set forth in subsection (2) shall not result in duplication of any payments otherwise authorized by state law. No payment shall be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any payment, the tenant shall assign, transfer, and release all his right, title and interest in and to the improve-

ments. Nothing with regard to this acquisition of buildings, structures, or other improvements shall be construed to deprive the tenants of any rights to reject payment and to obtain payment for these property interests in accordance with other laws of this state.

History: L. 1972, ch. 24, § 6.

57-12-7. Replacement dwelling.—(1) No person shall be required to move or be relocated from land used as his residence and acquired under any of the condemnation or eminent domain laws of this state until he has been offered a comparable replacement dwelling which is a decent, safe, clean, and sanitary dwelling adequate to accommodate this person, reasonably accessible to public services and places of employment, and available on the private market.

(2) If a program or project cannot proceed to actual construction because comparable sale or rental housing is not available, and the head of the agency determines that this housing cannot otherwise be made available, he may take such action as is necessary or appropriate to provide this housing by use of funds authorized for the project.

(3) No person shall be required to move from his dwelling after the effective date of this act, on account of any project of the agency, unless the agency head is satisfied that replacement housing is available to this person.

History: L. 1972, ch. 24, § 7.

57-12-8. Advisory program.—(1) Whenever the acquisition of real property for a program or project undertaken by an agency will result in the displacement of any person after the effective date of this act, the agency shall provide a relocation assistance advisory program for displaced persons which shall offer the services prescribed in this act. If the agency determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, it may offer this person relocation advisory services under such program.

(2) Each relocation assistance program required by subsection (1) shall include such measures, facilities, or services as may be necessary or appropriate in order:

(a) To determine the needs of displaced persons, business concerns, and nonprofit organizations for relocation assistance;

(b) To assist owners of displaced businesses and farm operations in obtaining and becoming established in suitable business locations or replacement farms;

(c) To supply information concerning programs of the federal, state, and local governments offering assistance to displaced persons and business concerns;

(d) To assist in minimizing hardships to displaced persons in adjusting to relocation; and

(e) To secure, to the greatest extent practicable, the co-ordination of relocation activities with other project activities and other planned or proposed governmental actions in the community or nearby areas which may affect the carrying out of the relocation program.

History: L. 1972, ch. 24, § 8.

57-12-9. Rules and regulations of displacing agency.—(1) The displacing agency shall promulgate and adopt such rules and regulations as may be necessary to assure:

(a) That the payments and assistance authorized by this act shall be administered in a manner which is fair and reasonable, and as uniform as practicable;

(b) That a displaced person who makes proper application for a payment authorized for him by this act shall be paid promptly after a move or, in hardship cases, be paid in advance; and

(c) That any person aggrieved by a determination as to eligibility for a payment authorized by this act, or the amount of a payment, may have his application reviewed by the head of the displacing agency.

(d) The displacing agency may promulgate and adopt such other regulations and procedures, consistent with the provisions of this act, as it deems necessary or appropriate to carry out this act.

History: L. 1972, ch. 24, § 9.

Compiler's Notes.

Section 9 of Laws 1972, ch. 24 does not contain a subsection designation "(2)."

57-12-10. Displacing agency may contract for services or function through another agency.—To prevent unnecessary expense and duplication of functions and to promote uniform and effective administration of relocation assistance programs for displaced persons, the displacing agency may enter into contracts with any person for services in connection with these programs, or may carry out its functions under this act through any agency or any federal agency or instrumentality.

History: L. 1972, ch. 24, § 10.

57-12-11. Payments not income or resources for welfare or tax purposes.—No payment received by a displaced person under this act shall be considered as income or resources for the purpose of determining the eligibility or extent of eligibility of any person for assistance under any state law or for the purposes of the state's individual income tax, corporation franchise tax, or other tax laws. These payments shall not be considered as income or resources of any recipient of public assistance, and such payments shall not be deducted from the amount of aid to which the recipient would otherwise be entitled.

History: L. 1972, ch. 24, § 11.

57-12-12. Appeal of administrative determination.—Any person or business aggrieved by final administrative determination concerning relocation assistance authorized by this act may appeal such determination to the

district court of the county in which the real property taken for public use is located.

History: L. 1972, ch. 24, § 12.

57-12-13. Procedure for acquisition of property.—Any agency acquiring real property as to which it has the power to acquire under the eminent domain or condemnation laws of this state shall comply with the following policies:

(1) Every reasonable effort shall be made to acquire expeditiously real property by negotiation.

(2) Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property.

(3) Before the initiation of negotiations for real property, an amount shall be established which is reasonably believed to be just compensation therefor, and such amount shall be offered for the property. In no event shall such amount be less than the lowest approved appraisal of the fair market value of the property. Any decrease or increase of the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The owner of the real property to be acquired shall be provided with a written statement of, and summary of the basis for, the amount established as just compensation. Where appropriate the just compensation for real property acquired and for damages to remaining real property shall be separately stated.

(4) No owner shall be required to surrender possession of real property acquired through federal or federally assisted programs before the agreed purchase price is paid or there is deposited with a court having jurisdiction of condemnation of such property, in accordance with applicable law, for the benefit of the owner an amount not less than the lowest approved appraisal of the fair market value of such property or the amount of the award of compensation in the condemnation proceeding of such property.

(5) The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling will be available) or to move his business or farm operation without at least ninety days' written notice from the date by which such move is required.

(6) If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

(7) In no event shall the time of condemnation be advanced, on negotiations or condemnation and the deposit of funds in court for the use of the owner be deferred, or any other coercive action be taken to compel an agreement on the price to be paid for the property.

(8) If an interest in real property is to be acquired by exercise of the power of eminent domain, formal condemnation proceedings shall be instituted. The acquiring agency shall not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

(9) If the acquisition of only part of the property would leave its owner with an uneconomic remnant, an offer to acquire the entire property shall be made.

History: L. 1972, ch. 24, § 13.

Separability Clause.

Section 14 of Laws 1972, ch. 24 provided: "If any provision of this act, or the application of any provision to any person or circumstance, is held invalid, the remainder of this act shall not be affected thereby."

Repealing Clause.

Section 15 of Laws 1972, ch. 24 provided: "Sections 27-12-12, 27-12-12.1, 27-12-12.5, 27-12-12.7, 27-12-12.8, 27-12-12.9, and 27-12-12.10, Utah Code Annotated 1953, as enacted by chapter 66, Laws of Utah 1969, and sections 27-12-12.2, 27-12-12.3, 27-12-12.4 and 27-12-12.6, Utah Code Annotated 1953, as enacted by chapter 66, Laws of Utah 1969, as amended by chapter 57, Laws of Utah 1971, are repealed."